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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

SHARON CLAPHAM, Plaintiff and Appellant, v. GLORIA FARIAS, Defendant and Respondent.	B303229 (Los Angeles County Super. Ct. No. BC672526)

APPEAL from a judgment of the Superior Court of Los Angeles County, Maureen Duffy-Lewis, Judge. Affirmed.

Sharon J. Clapham, in pro. per., for Plaintiff and Appellant.

Law Offices of Ada R. Cordero-Sacks, Ada R. Cordero-Sacks, and Christopher Godinez for Defendant and Respondent.

This is the second appeal by plaintiff and appellant Sharon Clapham arising out of her trial court action against defendant and respondent Gloria Farias and others. In a prior appeal, Clapham challenged the trial court's summary judgment in favor of Farias's codefendant, Ann Barker, contending the trial court abused its discretion by not allowing witnesses, including Clapham, to testify at the hearing on Barker's motion for summary judgment. We affirmed without reaching the merits of Clapham's arguments because the record designated by Clapham failed to include many of the relevant documents related to the summary judgment motion, including the motion itself, the opposition, the reply, the separate statement of undisputed material facts, any of the declarations either in support of, or in opposition to, the motion, and the reporter's transcript of the hearing. (*Clapham v. Barker*, (Oct. 29, 2020, B300548) [nonpub. opn.].)

Clapham's current appeal of the trial court's summary judgment in favor of Farias suffers the same infirmity. Clapham once again failed to designate an adequate record to support any claimed prejudicial error, and we must affirm on that ground.

FACTS AND PROCEDURAL SUMMARY

Because the alleged facts giving rise to the action are not relevant to the disposition of this appeal, we discuss them only briefly. Clapham is the widow of Robert Clapham, an accountant and the former proprietor of Robert G. Clapham Accountancy Corporation (RGCAC). Following Robert Clapham's death in 2013, Clapham attempted to collect on debts owed to RGCAC, including unpaid billings issued to Farias. Clapham also had numerous discussions with one of RGCAC's employees, Peter Sinambal, about a potential sale of the accountancy business to Sinambal. According to Clapham, Sinambal engaged in multiple acts of deceit and

wrongdoing during the negotiations, and the parties never reached an agreement.

Clapham's operative first amended complaint alleged claims for financial elder abuse, fraud, breach of contract, and conversion against Sinambal, Barker, Farias, and several other defendants.

Farias moved for summary judgment against Clapham on May 21, 2019. The trial court granted Farias's motion in its entirety on August 12, 2019. On September 4, 2019, Clapham filed a notice of appeal purportedly from the "[j]udgment after an order granting a summary judgment motion." Judgment, however, was not entered until October 16, 2019.[1]

On appeal, Clapham designated only the following documents to be included in the record: (1) notice of appeal, (2) notice designating the record on appeal, (3) judgment, (4) notice of entry of the judgment, (5) register of actions, (6) first amended complaint, and (7) an amended motion for reconsideration of an order on an unrelated demurrer.

Farias took issue with Clapham's designation, arguing in her responding brief that, since Clapham "failed to include the moving and opposing papers on [her motion for summary judgment], as well as the transcripts of the hearing, she has . . . prevent[ed] meaningful review" of the judgment.

The next business day after Farias's respondent's brief was filed and served, Clapham filed the first of two motions to augment the record on appeal. The first sought to add the transcript of the hearing on the motion for summary judgment, as well as transcripts

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[1] We exercise our discretion to treat an appeal from an order granting summary judgment as an appeal filed after the entry of judgment. (*Taylor v. Trimble* (2017) 13 Cal.App.5th 934, 939.)

of two unrelated hearings, but none of the relevant moving papers. Clapham gave no reason for her delay in seeking augmentation.

The second motion attempted to cure the shortcomings of the first motion by requesting the addition of Farias's motion for summary judgment, Clapham's opposition, Farias's reply, both parties' separate statements of undisputed facts, and other relevant documents. However, the second motion to augment (filed immediately on the heels of the issuance of our opinion in *Clapham v. Barker*, *supra*, B300548) was not made until November 2, 2020, well after the completion of briefing and within 15 days of oral argument. The motion failed to provide any explanation for the delay in seeking relief. We denied both motions.

DISCUSSION

A judgment is presumed to be correct, and it is the appellant's burden to show error. (*In re Marriage of Arceneaux* (1990) 51 Cal.3d 1130, 1133.) Our review is limited to matters contained in the record on appeal and without the proper record, we conclusively presume that the evidence supports the judgment. (*Pringle v. La Chapelle* (1999) 73 Cal.App.4th 1000, 1003–1004, fn. 2.) An appellant therefore has the burden of providing a reviewing court with an adequate record to support any claimed error. (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1295–1296 ["Because they failed to furnish an adequate record . . . defendants' claim must be resolved against them."].)[2]

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[2] The burden applies equally to parties who, like Clapham, elect to represent themselves on appeal. "Under the law, a party may choose to act as his or her own attorney. [Citations.] '[S]uch a party is to be treated like any other party and is entitled to the same, but no greater consideration than other litigants and attorneys. [Citation.]' [Citation.] Thus, as is the case with

On appeal, Clapham's original designation of record failed to include any of the moving, opposition, or reply papers on her motion for summary judgment, including, most critically, the separate statements of undisputed material facts. (*Lewis v. County of Sacramento* (2001) 93 Cal.App.4th 107, 112 ["Facts not contained in the separate statements do not exist."].) Although she did attempt to cure the insufficiencies in the record, her motions to augment were untimely, with no explanation or justifications for the delay. (Ct. App., Second Dist., Local Rules, rule 2(b), Augmentation of record ["Appellant should file requests for augmentation in one motion within 40 days of the filing of the record or the appointment of counsel. . . . Thereafter, motions to augment will not be granted except upon a showing of good cause for the delay."].)

Because Clapham failed to present an adequate record, we must conclusively presume the judgment was correct. (*In re Marriage of Arceneaux*, *supra*, 51 Cal.3d at p. 1133; *Uniroyal Chemical Co. v. American Vanguard Corp.* (1988) 203 Cal.App.3d 285, 302.)

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attorneys, pro. per. litigants must follow correct rules of procedure." (*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246-1247.)

DISPOSITION

The judgment is affirmed. Farias is awarded her costs on appeal.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

CHANEY, J.

FEDERMAN, J.*

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* Judge of the San Luis Obispo County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.